



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
CORR

Serial No.: 07/957,080

Filed: October 7, 1992

For: LUBRICANTS

Group Art Unit: 1105

Examiner: Ogden

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GROUP 1100

February 7, 1995

PETITION TO COMMISSIONER
UNDER 37 CFR 1.181 TO REOPEN PROSECUTION

Honorable Commissioner of
Patents and Trademarks
Washington, D. C. 20231

Sir:

The applicant hereby petitions to the Commissioner asking that prosecution of this application before the Examiner be reopened in order to give the applicant the proper opportunity to respond to new art rejection made by the Examiner in his answer dated January 27, 1995.

In his answer, the Examiner has withdrawn the two art rejections on which the applicant's appeal brief was based and he has instead made two new Section 103 rejections which, in each case, are based on one or two newly cited references. Thus, the new rejections combine WO '849, which was of record, with the newly cited Shankland et al patent or with the newly cited Yoshita et al or Shiflett patents.

Because of the new grounds of rejection, the applicant has been given two months to respond to the action. However, since

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the rejections on which the appeal was based have been withdrawn, the applicant is faced with completely new art rejections to deal with in just two months. The applicant and his assignee are located overseas and it is not believed proper or appropriate to place the applicant under the time burden presented by the Examiner's answer. Furthermore, in fairness, prosecution before the Examiner should be reopened in the customary fashion with the applicant given a fresh action with the usual three month period to respond and the possibility of further action for response before, if necessary, appeal. This is the only fair way to proceed, particularly since there is really no present basis for appeal, all prior issues having been withdrawn. Prosecution ought to be started all over again with the Examiner's answer treated as a first action.

Action consistent with the above is requested.

Respectfully submitted,

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